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International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances
Eighth session

Summary record of the public part* of the 119th meeting
Held at the Palais Wilson, Geneva, on Monday, 2 February 2015, at 10 a.m.

Chairperson: Mr. Decaux

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* The summary record of the closed part of the meeting appears as document CED/C/SR.119/Add.1.

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The meeting was called to order at 10 a.m.

Opening of the session

1. **The Chairperson** declared open the eighth session of the Committee on Enforced Disappearances.

Statement by the representative of the United Nations High Commissioner for Human Rights

2. **Mr. Walker** (Chief, Civil, Political, Economic, Social and Cultural Rights Section, Human Rights Treaties Division, Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that, although the pace of ratification was slow, the number of States parties to the International Convention for the Protection of All Persons from Enforced Disappearance had risen to 44 with the ratification of the Convention by Slovakia, which had also accepted the competence of the Committee to receive and consider communications.

3. OHCHR had seen a significant cut in extrabudgetary resources for all parts of the organization. In that context, in 2015 the Office would focus on assisting each committee to reach the targets set out in General Assembly resolution 68/268, on strengthening and enhancing the effective functioning of the human rights treaty body system, for documentation related to State party reporting. In order to be able to respond to the General Assembly's request for a biennial report on the implementation of the resolution, which also involved the harmonization of working methods, OHCHR had begun to collect data and track progress in that regard. That effort would include a review of the application of the Addis Ababa guidelines on the independence and impartiality of members of the human rights treaty bodies. The Committee might therefore wish to consider establishing an internal mechanism to track its progress in applying those guidelines.

4. Recalling that the Committee had requested the inclusion, on an exceptional basis, of a fourth official language for the current session, in addition to the three official languages provided for in the resolution, he urged the Committee to be selective in its requests to ensure that the limited resources available would be sufficient to meet the needs of all the treaty bodies.

Statement by the Chairperson

5. **The Chairperson**, pointing out that the eighth session marked the end of the Committee's first four-year cycle, said that many States parties had failed to report within two years of ratification, as provided for under article 29. Reporting was a crucial basis for the effective implementation of the Convention and for a constructive dialogue with the Committee; therefore, the Committee should use all means at its disposal to ensure compliance.

6. The Committee would be working at full capacity during the session, as it would be considering the reports of three States parties and preparing lists of issues for another two. Thanks to the joint efforts of the International Commission of Jurists and the Centre for Civil and Political Rights, the long-awaited dialogue with the delegation of Mexico, which would be the first State party to have its report considered at the current session, would be webcast live. The public discussion of the report of Mexico would, given the dramatic situation on the ground, be a key step towards the full implementation of the Convention.

7. Since the previous session, he had had fruitful discussions with the Special Rapporteur on the question of torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions in order to align the conceptual approaches that they and the Committee were taking to the fulfilment of their various mandates. In addition to their

annual meetings, the chairpersons of human rights treaty bodies also held informal gatherings, the latest of which had resulted in the adoption of a document on the Sustainable Development Goals and another substantive document entitled *Human Rights against Violence*. It was of the utmost importance for all the chairpersons to be united on vital issues. The next meeting of chairpersons, over which the Committee on Enforced Disappearances would be presiding, would take place in June 2015 in Costa Rica and would focus on developing guidelines on reprisals.

Adoption of the agenda

8. *The agenda (CED/C/8/1) was adopted.*

Minute of silence in remembrance of victims of enforced disappearances

9. *At the invitation of the Chairperson, all those in attendance observed a minute of silence in remembrance of victims of enforced disappearance.*

The public part of the meeting was suspended at 10.20 a.m. and resumed at 11.30 a.m.

Consideration of reports of States parties to the Convention

Initial report of Mexico (CED/C/MEX/1 and CED/C/MEX/Q/1)

10. *At the invitation of the Chairperson, the delegation of Mexico took places at the Committee table.*

11. **Mr. Gómez Robledo** (Mexico), introducing the initial report of Mexico (CED/C/MEX/1), said that his Government recognized that, despite the significant progress made in promoting human rights in his country, challenges remained to be overcome, especially in view of the recent events in Iguala, which had sparked indignation and condemnation around the world. Both the Government and society of Mexico were committed to seeking the truth about those events and bringing the guilty parties to justice. Those events also highlighted the importance of continuing to address the problems of poverty, exclusion and corruption as a means of combating the violence and organized crime that went along with them, while also strengthening the State's capacity to provide security and justice.

12. The Attorney General of the Republic had launched a criminal investigation into the Iguala events on a scale that was unprecedented in the country's recent history. He had also requested technical assistance from the Inter-American Commission on Human Rights in that connection. In mid-January 2015, the Commission had appointed a group of independent experts who would begin their work in the coming days. Those experts would not only assess the State's response in the case but would also have the power to make farther-reaching recommendations. Mexico was open to constructive criticism and welcomed assistance from other international institutions and Governments but also wished to point out that, in order to achieve their desired end, the efforts of international human rights organizations should place priority on a dialogue focusing on a shared agenda rather than on denunciation.

13. A comprehensive system for preventing the reoccurrence of events such as those of Iguala was urgently needed. In November 2014, the President had announced 10 measures to strengthen security, justice and the rule of law in Mexico, including the preparation of legislation that would allow Congress to adopt general laws on the prevention of torture and enforced disappearance, the establishment of a national missing persons search system and the adoption of procedures for ensuring that investigations into enforced disappearances were timely, exhaustive and impartial.

14. Mexico had made a great deal of progress on human rights issues over the past three decades, and his delegation trusted that the Committee would at all times work in a spirit of dialogue and cooperation with States that had voluntarily assumed the obligations set forth in the Convention.

15. **Ms. García Laguna** (Mexico) said that the Government was introducing various mechanisms for use in searching for disappeared persons and was working to improve coordination between federal and state institutions in that connection. In September 2013, the Attorney General's Office had signed an agreement with the International Committee of the Red Cross to obtain licences for its ante-mortem/post-mortem database software, and efforts were under way to train staff in its use. The database was already in operation and would be in use in attorneys general's offices, public prosecutors' offices and forensic services throughout the country by the end of 2015. The Missing Persons Search Unit, established in June 2013, had a staff of 170 and was authorized to receive complaints of involuntary or enforced disappearance. Of the 627 persons whom the Unit had searched for thus far, 103 had been located. The Attorney General's Office had also signed an agreement with families of migrants who had disappeared and with various Mexican organizations for the establishment of a forensic commission that would be equipped to identify deceased persons in certain regions of the country. That initiative was helping to build the capacity of the country's forensic services and was beginning to yield results.

16. The 2013–2018 National Development Plan provided for the compilation of information that would help to identify disappeared and missing persons, and the Ministry of the Interior had units that specialized in finding such persons. The database on disappeared persons that was being developed included information provided by public prosecutors' offices and attorneys general's offices in all states and the Federal District. Working groups had been established in each of those offices to screen and update their records before sending that information to the Office of the Attorney General of the Republic for inclusion in the main database. Out of the total number of persons on which information had been entered into the database between 1 December 2012 and 31 October 2014, over 16,000 had been located, and 96 per cent of those persons had been found alive. Efforts to find the remaining persons continued. The database was still under construction, and much work remained to be done.

17. **Mr. Moreira Valdez** (Mexico) said that the National Conference of Governors had reached a number of inter-state agreements on such matters as the development of a ministerial protocol, specialized care for victims and the establishment of missing persons committees. The states of Mexico had made a commitment to submit bills providing for the certification of declarations of absence by reason of disappearance and to bring their criminal legislation on enforced disappearance into line with international standards. They had also agreed to submit genetic profiles to the Office of the Attorney General of the Republic for inclusion in a national database. Further agreements had been reached on victim protection and the alignment of state legislation with the Victims Act.

18. The Office of the Assistant Attorney General for the Search for Disappeared Persons had been established in the State of Coahuila, along with a state-wide plan to address the issue. Local and federal officials and civil society organizations met regularly with family members of disappeared persons to monitor the progress made in resolving their cases. An independent working group also tracked the progress made in that regard and issued recommendations which had led to the amendment of state laws. A comprehensive assistance programme for the families of victims was in place to prevent their revictimization and to address their needs in such areas as education, housing, health care and employment. More than 200 families had benefited from the programme.

19. **Mr. Hazan**, expressing his appreciation for the participation of the large, high-level delegation, said that the current meeting was just one part of a constructive dialogue that

had begun with the submission of the State party's initial report and would continue with the Committee's concluding observations and recommendations and with the follow-up on those recommendations. Through its work with Mexico in the context of urgent action requests, the Committee had witnessed the desperation of the families of disappeared persons at first hand. The Committee had apprised the Government of its belief that a visit to Mexico pursuant to article 33 of the Convention was called for. While the Committee did not intend to focus exclusively on the events of Iguala, the manner in which the State investigated those events, punished those responsible and ensured that such crimes did not reoccur would be viewed by the entire world as a test of its resolve.

20. Although the report was detailed, it also raised many questions. The Committee's primary concern was the gap between the law, including the Convention and other international standards, and practice in the State party. The purpose of the Convention was to provide guarantees of non-repetition of the crime of enforced disappearance and to counter impunity for that crime. While only past events could come under investigation, the Committee would be working with the State party towards a future free from cases of enforced disappearance.

21. **Mr. Huhle**, referring back to the State party's replies to the list of issues, which had been circulated informally, asked what "substantive units" (*áreas sustantivas*) the Attorney General's Office consulted before responding to the Committee's requests for urgent action. Given the humanitarian nature of cases of enforced disappearance, could the State party respond more swiftly to such requests? What was the status of the discussions concerning the recognition by the State party of the Committee's competence to receive and consider communications pursuant to articles 31 and 32 of the Convention?

22. Could the State party explain how the proposed general law on enforced disappearance, the amendment to article 215 of the Federal Criminal Code and the special laws of some states related to one another? He would appreciate clarification of the meaning of the phrase "give preference to developing a general law in that area", which was used in paragraph 3 of the replies to the list of issues, and would like to know if it implied that laws on enforced disappearance were therefore considered secondary. What strategy was in place for aligning the legislative framework with the articles of the Convention regarding the definition and criminalization of enforced disappearance? It was important to know whether the proposed general law on enforced disappearance would be directly and immediately applicable in all states and in all suspected cases of enforced disappearance. When was that law to be adopted? He would be interested to learn how that law would affect the criminal prosecution system. Would the powers of prosecution remain with the Office of the Attorney General of the Republic, be conferred upon the offices of attorneys general at the state level or be shared between the two? He wondered whether there was an approved draft of the general law for the Committee to consider. Further clarification would be appreciated on the "cooperative system" for determining federal and state jurisdiction mentioned in paragraph 3.2 (c) of the replies to the list of issues. An explanation of the difference between the offices of public prosecutors (*fiscalías*) and offices of attorneys general (*procuradurías*) would also be helpful.

23. Had enforced disappearance been classified as a crime in its own right only once the relevant national laws had been passed or when the State party had assumed the corresponding international obligations, which were immediately applicable under the Constitution of Mexico? Given the continuous nature of the crime of enforced disappearance, could suspects in ongoing trials be charged with that offence as well, or would that be considered as running counter to the principle of legality? He would appreciate further information on the legal provisions under which the failure to prevent an enforced disappearance by a person having a legal obligation to do so constituted a crime. Was that offence defined in the same way in all the states?

24. He would be grateful if the State party would provide copies of the draft bills regarding the criminal responsibility of a superior that were mentioned in paragraph 4 of its replies to the list of issues. Did those draft texts have the Government's backing and were they under consideration? Could the delegation provide information on existing punishments for the offence of enforced disappearance and for the offence of failing to prevent such a crime? Examples of such cases would be appreciated.

25. Were implementing regulations in place for the National Registry of Missing and Disappeared Persons Act and was the Registry actually in operation? How was the distinction maintained in the Registry between cases of enforced disappearance that came under article 2 of the Convention, those covered by article 3, and cases involving disappeared or missing persons that did not fall within the scope of the Convention? How did the State party ensure that all the data in the Registry were generated using the same criteria and methodology at the federal and state levels? He would like to know what criteria were used to update the data. It was a matter of concern, since a case of enforced disappearance persisted as such even after a victim had been found, whether dead or alive, and should therefore remain in the database. The vastly disparate data provided to the Committee over the previous two years demonstrated that the number of disappeared persons in Mexico was unknown and raised questions as to the methods used to compile the figures. Lastly, further details would be appreciated on the work of the Criminal Investigation Agency (AIC).

26. **Mr. Hazan**, referring to paragraph 7 of the State party's replies to the list of issues, asked which authority was responsible for developing the transnational mechanism to be used to search for disappeared persons. Could the State party provide examples of cases in which immediate assistance had been provided to migrants who were threatened or who had disappeared? He would like to know what impact the Beta migrant protection groups and the specialized units of the Attorney General's Office had had in cases where migrants had been victims of enforced disappearance. Could the Committee provide statistics on cases of enforced disappearance involving migrants? He asked whether DNA samples from the families of disappeared migrants had been included in the ante-mortem/post-mortem database. What safeguards were provided to protect migrants in administrative detention from enforced disappearance?

27. He would like to know what the time frame was for the introduction of the amended Federal Code of Criminal Procedure and how the amendments would affect investigations into cases of enforced disappearance. It would be interesting to learn whether the enforced disappearance of members of the armed forces by military personnel would be investigated by the military or the civilian courts. Could the State party provide details on cases currently before the military courts? Where were military personnel suspected of committing an act of enforced disappearance held? In the event that a suspect was held in military facilities, how were the independence of the investigation and unhindered access to legal counsel guaranteed?

28. **Mr. Huhle**, noting with concern that, according to certain sources, the protocol under which special search efforts were to be made during the first 72 hours of a disappearance had not been applied in the case of the events of Iguala, asked when that protocol would be fully implemented. In the meantime, what procedures were followed at the outset of an investigation into a disappearance? He would appreciate information on the number of cases of alleged enforced disappearance in the State party, broken down by state and year, and on the number of investigations conducted and their outcomes.

29. Were there plans to establish a specialized office to deal with enforced disappearances that would be comparable to the Office of the Assistant Attorney General for Organized Crime Investigations? What distinguished the Strategic General Directorate for Human Rights of the Ministry of the Interior from the Executive Commission for

Victim Support (CEAV)? He would like to know why the report of the Special Prosecutor for Social and Political Movements from the Past had not yet been published and whether there were plans to publish it shortly. What was the status of the investigations covered in that report?

30. **Ms. Janina** said that she would like details on the consultations held with civil society during the preparation of the State party's report, including the schedule of the meetings and the recommendations made by civil society. She would like to know the number of cases in which the Convention had been invoked directly by judges at the federal or state level and whether the definition of enforced disappearance in the Federal Criminal Code encompassed disappearances carried out by persons acting with the acquiescence of the State.

31. **Mr. López Ortega** said that he would like to know how many persons were currently being afforded protection measures. He would appreciate further information regarding the steps taken, in accordance with article 14, paragraph 4, of the Convention, to ensure that persons suspected of having committed an enforced disappearance were not in a position to influence the progress of an investigation. He would be particularly interested to know whether a State official could be suspended from his or her duties during an investigation when that official was a suspect. What procedures were in place and which bodies were responsible for applying interim measures of that type? How many public officials were currently subject to such measures? What proportion of all investigations into enforced disappearances concerned State officials? Was it possible to exclude a law enforcement or security force from an investigation into an enforced disappearance when one or more of its members stood accused of the offence? What procedure was followed in such cases and which authority enforced the corresponding measures?

32. **Mr. Yakushiji** said that, in the light of the discrepancies between the data supplied by the Government and by civil society, he would appreciate further information on the efforts being made to provide accurate information on the outcomes of investigations and on the steps taken to prosecute cases of enforced disappearance at the federal and state levels. Were the procedures for holding consultations with civil society going to be improved? How would new legislation on investigations into cases of enforced disappearance be harmonized at the federal and state levels?

33. **Mr. Camara** said that he would appreciate clarification on the organization of the judiciary in the federal system. Since the report mentioned that enforced disappearance was defined as a serious criminal offence in only 19 states, he wondered what the situation was in the others. How was harmonization of national and international legislation ensured, and how was the Convention applied under Mexican law?

The meeting rose at 1 p.m.